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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,622	10/31/2003	Michael L. Shackelford	1997	3039

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EXAMINER

DEUBLE, MARK A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/699,622	Applicant(s) SHACKELFORD ET AL.	
	Examiner Mark A. Deuble	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 40 and 41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-36 is/are allowed.
- 6) ☒ Claim(s) 1, 7, 10-12, 14, 18 and 37 is/are rejected.
- 7) ☒ Claim(s) 2-6, 8, 9, 13, 15-17, 19-22, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/3/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-39 in the reply filed on September 23, 2005 is acknowledged.

2. Claims 40-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on September 23, 2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ackley Jr. et al. (U.S. Patent No. 4,657,130).

Ackley shows an apparatus that is adapted to transport small containers such as pharmaceutical capsules in a manufacturing operation. The apparatus includes an upstream load area 12, an upstream conveyor assembly 202, a downstream conveyor assembly 82, and a transfer assembly 22. The upstream conveyor assembly transports containers from the load area in a downstream direction to create a reservoir of containers at a downstream supply area adjacent the end 50 of the conveyor. The transfer assembly includes a rotatable transfer wheel 24 having a plurality of radially projecting prongs formed in the surface 34 of the wheel between carrier means 34 that are oriented to engage each of the containers. The wheel sequentially

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removes selected containers one at a time from the reservoir and sequentially transports each to the intake location of the downstream conveyor where each container is deposited into a respective bay 86 of the downstream conveyor as they are sequentially advanced past the intake location. Each of the bays of the downstream conveyor are sized and adapted to receive a single container therein for transport in the downstream direction from the intake location to a discharge location such that the containers will be discharged in a plurality of single file lines at a discharge location. Thus, Ackley shows all the structure required by claims 1 and 15.

5. Claims 1, 7, 10-12, 18, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by D'Agnolo et al. (U.S. Patent No. 4,042,098).

D'Agnolo shows an apparatus that is adapted to transport small containers in a manufacturing operation. The apparatus includes an upstream load area 11, an upstream conveyor assembly 12 parallel to a support surface, a downstream conveyor assembly 19 positioned in an upright orientation relative to the support surface, and a transfer assembly 15. The upstream conveyor assembly transports containers from the load area in a downstream direction to create a reservoir of containers at a downstream supply area adjacent the end of the conveyor. The transfer assembly includes generally parallel first and second plate portions 57 that are spaced apart from one another a distance selected to allow single file passage of containers therethrough as the transfer assembly sequentially removes selected containers one at a time from the reservoir and sequentially transports each to the intake location of the downstream conveyor. The downstream conveyor includes a belt with a belt advance and return portions and a plurality of vanes 21 thereon for common movement therewith. The belt and adjacent vanes 21 define bays that are sized and adapted to receive a single container therein for

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transport in the downstream direction from the intake location to a discharge location such that the containers will be discharged in a plurality of single file lines at a discharge location. A restraining guide with a panel 29 that has a width about the same as the downstream conveyor belt and that extends alongside and in spaced relation to the belt advance portion of the downstream belt to retain containers within the bays as they are advanced from the intake location to the discharge location. Thus, D'Agnolo shows all the structure required by claims 1, 7, 10-12, 18, and 37.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Agnolo or Ackley in view of Furst (U.S. patent No. 3,468,407).

Furst shows a singulating conveyor similar to that of Ackley and D'Agnolo that has a cassette loader 1 located at the load area. The cassette loader is movable between a load position and an unload position and it is adapted to receive a bulk supply of containers when in the load position and operative to deposit a bulk supply of containers onto a conveyor assembly when in the unload position. The conveyor of Furst also has a discharge ramp 2k. Furst teaches that the cassette loader facilitates loading a singulating conveyor and that the discharge ramp facilitates unloading a singulating conveyor. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a cassette loader and a discharge ramp in the

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conveyors of Ackley and D'Agnolo according to the teachings of Furst. When this is done, the resulting apparatus would have all the structure required by claims 7 and 14.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art not discussed above show singulating conveyors similar to that of the present invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md

**MARK A. DEUBLE
PATENT EXAMINER**

